

Massachusetts Enacts New Pay Transparency Requirements for Employers

HIGHLIGHTS

On July 31, 2024, Massachusetts Governor Maura Healy signed into law An Act Relative to Salary Range Transparency (the Pay Transparency Act), which will implement pay-transparency requirements for certain employers. The new requirements will be phased in starting in February and July of 2025. Like other states that have adopted such transparency laws, the new law's goal is to disclose to candidates, as well as existing employees, salary and pay ranges for an advertised position or promotion, making it easier for the employee to negotiate pay rates. There are three important takeaways for employers under this new law: posting/disclosure requirements, EEO and state reporting obligation, and compliance with the anti-retaliation mandate.

- **Employers with 25 or more Massachusetts employees** must include salary range information in job postings and provide pay range information to current employees under certain circumstances.
- **Employers with 100 or more Massachusetts employees** must submit annual EEO and pay data to the Commonwealth, which will be reported by the Massachusetts Executive Office of Labor and Workforce Development.
- Employers are prohibited from retaliating against any individual, and expands on the Massachusetts Equal Pay Act's commitment to closing wage gaps by providing job applicants with more information about what the employer is offering for a position.

WHAT ARE THE POSTING REQUIREMENTS?

Effective July 31, 2025, employers with at least 25 Massachusetts employees must:

1. Include pay ranges in any job postings;
2. Provide pay ranges to an employee to whom the employer offers a promotion or transfer to a new position with different job responsibilities; and
3. Upon request, provide the pay range to any applicant or employee already holding the position.

The law defines a pay range as the annual salary range or hourly wage range an employer reasonably and in good faith expects to pay for a position. It does not require disclosure of supplemental compensation such as bonuses or benefits. The law applies to advertisements or job postings intended to recruit applicants, including third parties; this also extends to staffing companies. Note, however, that the law does not address whether it applies to positions that could be filled by an employee working remotely in Massachusetts.

WHAT ARE THE REPORTING REQUIREMENTS?

Effective February 1, 2025, private employers (public employers follow separate procedures) with at least 100 Massachusetts employees must file an annual report including demographic and pay data by race, ethnicity, sex, and job category. The submission of a properly completed federal EEO-1 Employer Information Report will satisfy the requirement for private employers. Unions, state and local governments, and elementary and secondary school systems will be required to submit relevant information every two years.

HOW WILL THE REPORTING AND DISCLOSURE PROVISIONS BE ENFORCED?

The law does not include a private right of action, which means that employees and job applicants



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cannot bring lawsuits against employers for alleged violations. The Massachusetts Attorney General's Office holds exclusive jurisdiction for enforcement. Penalties for non-compliance include:

- **First offense:** Warning
- **Second offense:** Fine up to \$500
- **Third offense:** Fine up to \$1,000
- **Fourth offense and further violations:** Fine(s) between \$7,000 and \$25,000

There are no treble damages available for violations of the law.

Employers will have a 48-hour window to correct violations before they are considered separate offenses.

IS THERE A RETALIATION PROVISION?

The Act prohibits retaliation or discrimination against any employee or applicant for making a complaint to an employer or the Attorney General.

The attorneys of Cozen O'Connor's Labor and Employment Practice are ready to work with clients to assist them in preparing for compliance with the Act.